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10/654,080	09/03/2003	Peter V. Radatti	44-03	4112

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EXAMINER

NGUYEN, PHILLIP H

ART UNIT PAPER NUMBER

2191

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/654,080

Applicant(s)

RADATTI ET AL.

Examiner

Phillip H. Nguyen

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 6/1/2007.
2. Claims 1, 16-18 and 24 have been amended.
3. Claim 26 is newly added.
4. Claims 1-26 remain pending and have been considered below.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

6. The amendment filed on 6/1/2007 does not overcome the 101 rejection set forth to claims 18-25 of previous action. Therefore, Examiner maintains the rejection.

Applicant asserts on pages 8-9 of the amendment that a server has been added to the claim limitations to overcome the rejection for being software per se.

Examiner respectfully disagrees with the allegation as argued. Regarding claim 18-23 recite an apparatus but all the components that make up this apparatus are software. Although, claim 18 recites a server but the drawing and the specification provide no explicit and deliberate definition of the server other than it could be software component. Applicant needs to show that the server is an actual hardware component. Regarding claims 24-25 recite an article of manufacture, which directed to software.

Art Unit: 2191

There is no written description to show that the article of manufacture is a hardware component. Since the server is also considered as software, this article is software per se.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5, 13, 14, 16-18 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (JP02002342084A).

As per claims 1, 16-18 and 24:

Suzuki discloses:

- providing an identified user with access, via a network, to a server comprising a program to be demonstrated (see at least [0014] "***A user terminal is characterized by logging on to said terminal server through a communication line***");

- receiving code from said identified user (see at least [0014] "**directing demonstration activation to said server for demonstration activation through said terminal server**");
- executing on said server said program to be demonstrated using said code received from said identified user and, providing any results of said execution (see at least [0014] "**receiving the demonstration result of said software by said server for demonstration activation through said terminal server**").

As per claim 2:

Suzuki further discloses:

- wherein said server is a highly secured server (**since it requires user to log in by the account, it is a highly secured server**).

As per claims 3 and 4:

Suzuki further discloses:

- wherein said providing an identified user with access, via a network, to a server comprising a program to be demonstrated further comprises identifying a user and providing said identified user with access, via a network, to a server comprising a program to be demonstrated (see at least [0026] "**...logs on by the account for which it has applied beforehand. If the account is a right thing, a log on in a terminal server 210 will be permitted**").

Art Unit: 2191

As per claim 5:

Suzuki further discloses:

- wherein said identifying a user further comprises identifying a user through supplying a user with a unique, operational user ID (see at least [0026] “...**logs on by the account for which it has applied beforehand. If the account is a right thing, a log on in a terminal server 210 will be permitted**” – account contains user identification).

As per claims 13, 22 and 25:

Suzuki further discloses:

- wherein said providing any results of said execution further comprises providing any results of said execution via a web page (**It is inherent in order to show the results on the terminal computer**).

As per claim 14:

Suzuki further discloses:

- providing said identified user with an option to purchase said program (**It is inherent in order to fulfill software demonstration/trail purposes**).

As per claim 21:

Suzuki further discloses:

Art Unit: 2191

- wherein said server is accessible to said identified user via the Internet (see at least [0011] "...**communication line of the 1<sup>st</sup> invention being the Internet**").

As per claim 23:

Suzuki further discloses:

- wherein said apparatus is in distributed form (***It is inherent in order to fulfill the software demonstration purposes***).

As per claim 26:

Suzuki further discloses:

- wherein said web page accessible to one or more of said user and others (see at least [0029] "***there is no limit of the number of user terminals***").

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5, 7-12, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (JP02002342084A).

As per claim 5:

Suzuki does not explicitly disclose:

- wherein said identifying a user further comprises identifying a user through supplying a user with a unique, operational email address.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that using email address to identify a user is well known in the relevant art. One would have been motivated to modify Suzuki's approach to use also use email address as part of a user account for identifying a user because the manufacturer may be used email to send out software demonstration message to the user. Therefore, using email address to match the user account is easy and fast.

As per claims 7, 8 and 19:

Suzuki does not explicitly disclose:

- wherein said providing an identified user with access, via a network, to a server comprising a program to be demonstrated further comprises providing an identified user with access, via a network, to a server comprising an email scanning program/proscribed code scanner program to be demonstrated.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that Suzuki's approach can be used to demonstrate email scanning program/proscribed code scanner program. One would



Art Unit: 2191

have been motivated to include an email scanning program/a proscribed code scanner program to be demonstrated because they are software programs.

As per claims 9 and 20:

Suzuki does not explicitly disclose:

- wherein said receiving code from said identified user further comprises receiving email from said identified user.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that if the user wishes to have an email scanning program to be demonstrate by a server, code must be sent to the server for scanning. One would have been motivated to email code or message to the server for scanning because one would have been interested to see the demonstration results from the scanning.

As per claim 10:

Suzuki does not explicitly disclose:

- wherein said receiving email from said identified user further comprises receiving a predetermined amount of email from said identified user.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki's approach to allow one a predetermined amount of mail from a user if he/she wishes to have the message be scanned. One

Art Unit: 2191

would have been motivated to only allow a predetermined amount of mail from the user for the demonstration purposes.

As per claim 11:

Suzuki does not explicitly disclose:

- wherein said receiving code from said identified user further comprises receiving code for a predetermined time from said identified user.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki's invention to only allow user accesses to the server a predetermined time for software demonstration. One would have been motivated to modify because allow user to access the server with a predetermined time to reduce a large number of user accessing the server the same time for software demonstration.

As per claim 12:

Suzuki does not explicitly disclose:

- wherein said executing said program to be demonstrated using said code further comprises executing an email scanning program to be demonstrated using email provided by said user.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that if an email scanning program is

Art Unit: 2191

demonstrated using the code/message from the email, it must be executed in order to produce a result.

As per claim 15:

Suzuki does not explicitly disclose:

- providing said server with a secure shut down mechanism.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that secure shut down mechanism is well known in the relevant art. One would have been motivated to allow the server in Suzuki's approach to secure shut down for security purposes.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

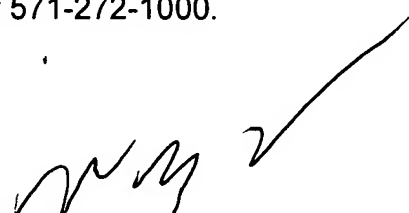
Art Unit: 2191

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip H. Nguyen whose telephone number is (571) 270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM - 3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN  
8/11/2007



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